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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Cuba

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in Cuba prepared by Mr. Carl-Johan Groth, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 12 of Commission resolution 1995/66 of 7 March 1995 and Economic and Social Council decision 1995/277 of 25 July 1995.

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Annex

INTERIM REPORT ON THE SITUATION OF HUMAN RIGHTS IN CUBA PREPARED BY THE SPECIAL RAPPORTEUR OF THE COMMISSION ON HUMAN RIGHTS IN ACCORDANCE WITH COMMISSION RESOLUTION 1995/66 AND ECONOMIC AND SOCIAL COUNCIL DECISION 1995/277

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 6	3
II.	CIVIL AND POLITICAL RIGHTS	7 - 36	4
	A. The right to non-discrimination on political grounds, and freedom of expression and association	7 - 20	4
	1. General observations	7 - 13	4
	2. Individual cases relating mainly to 1994 and 1995 which were reported to the Special Rapporteur in 1995	14 - 20	6
	B. Freedom of the press	21 - 22	14
	C. The administration of justice	23 - 27	14
	D. Police abuses resulting in fatalities	28 - 31	16
	E. The right to leave and return to the country	32 - 36	17
III.	CONDITIONS IN THE PRISONS	37 - 42	19
IV.	ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS	43 - 50	20
V.	CONCLUSIONS AND RECOMMENDATIONS	51 - 60	22

I. INTRODUCTION

1. At its fifty-first session, the Commission on Human Rights adopted resolution 1995/66, entitled "Situation of human rights in Cuba", on 7 March 1995. In that resolution, the Commission decided to extend for another year the mandate conferred on the Special Rapporteur under resolution 1992/261 of 3 March 1992, whereby Mr. Carl-Johan Groth had been appointed Special Rapporteur.

2. In resolution 1995/66, approved by the Economic and Social Council in its decision 1995/277 of 25 July 1995, the Special Rapporteur was requested to report to the Commission at its fifty-second session and to submit an interim report to the General Assembly at its fiftieth session. The present report is in response to that request.

3. In the same resolution, the Commission expressed its concern at information in the previous report of the Special Rapporteur to the effect that violations of fundamental human rights and freedoms enumerated in the Universal Declaration of Human Rights were continuing in Cuba, and noted with regret the continued failure of the Government of Cuba to cooperate with the Special Rapporteur and its refusal to permit him to visit Cuba in order to fulfil his mandate. It also once again called upon the Government of Cuba to permit the Special Rapporteur the opportunity to carry out his mandate in full, in particular by allowing him to visit Cuba; regretted the numerous unanswered reports of violations described in the report of the Special Rapporteur; and called upon the Government of Cuba to bring the observance of human rights and fundamental freedoms up to universally recognized standards.

4. The Commission also requested the Special Rapporteur to maintain direct contacts with the Government and citizens of Cuba. Pursuant to that request, the Special Rapporteur once again requested the cooperation of the Government in order to fulfil his mandate, asking, inter alia, for the opportunity to visit Cuba. That request has remained unanswered.

5. With regard to the maintenance of contacts with the citizens of Cuba, the Special Rapporteur has endeavoured to expand such contacts as widely as possible and has continued to demonstrate his willingness to receive any person or group wishing to meet with him.

6. For that purpose, and bearing in mind that most of the external sources of information on the situation of human rights in Cuba are in the United States of America, he travelled to New York and Washington, D.C., from 28 August to 1 September 1995, where he had the opportunity to meet with experts on the real situation in Cuba in various professional circles, including the academic world; with people who had recently left the country and had suffered violations of human rights; and with representatives of the following organizations and groups: the Coordinating Body for Human Rights Organizations in Cuba, the Cuban Committee for Human Rights, the Committee to Support the Human Rights Movement in Cuba, the Confederation of Democratic Workers, Freedom House, the Cuban Workers' Trade Union, Human Rights Watch, the Cuban Committee against the Blockade, the American Institute for Free Labor Development, Casa de las

Américas, the Federation of Cuban Masons in Exile, the Christian Democratic Party of Cuba, the Flotilla de la Libertad, the Cuban Democratic Coalition, the 30th of November Movement, the Cuban Centre for Human Rights, and Cuban Municipalities in Exile. The Special Rapporteur received written material - in addition to that received from the above-mentioned sources - from such sources as the Information Bureau of the Cuban Human Rights Movement, the World Federation of Cuban Political Prisoners and Amnesty International, as well as many communications from individuals sent from Cuba and abroad.

II. CIVIL AND POLITICAL RIGHTS

A. The right to non-discrimination on political grounds, and freedom of expression and association

1. General observations

7. The situation of human rights in Cuba continues to be characterized by severe restrictions of the rights to freedom of expression and association, the right to form and join trade unions and the right to strike, and strong official control over the individual activities of citizens, including the need for a permit from the Ministry of the Interior for citizens to be able to travel freely abroad, strong repression by the security forces which the maintenance of such control involves, and a system of administration of justice in criminal matters which to a large extent is in the service of the prevailing political régime. All this, combined with the serious economic crisis of recent years and external factors, has led to a situation in which approximately 10 per cent of the population (the population of Cuba comprises some 11 million inhabitants) resides outside the country, and a large number of people, regardless of their occupation, see emigration as the only hope for a better future and are prepared to abandon the country by any means.

8. Many persons with whom the Special Rapporteur has had the opportunity to speak emphasized that the current situation of human rights in Cuba is in fact not characterized by a systematic violation of the right to life, undoubtedly the most basic right of all those embodied in international instruments, but neither must the obvious importance of the incidents of that type of violation which do occur be underestimated. 1/ However, the shortcomings in the protection of other civil and political rights are so numerous and so deeply rooted in the political situation enshrined in the Constitution - under which the exercise of those rights is possible, but only within the framework of the building of socialism - that each case of, for example, detention on political grounds or punishment for illegal departure from the country must be viewed not in isolation, but in a context characterized by the lack of pluralism. The very fact that an individual applies to an "independent" body in order to file a complaint also carries with it a risk, since any body that may be described as independent of any ideology or official organ is illegal and hence is highly vulnerable and incapable of taking action.

9. The setting up of groups with a political orientation and groups for the defence of human and labour rights has continued to grow in recent years, despite the difficulties they encounter. This process has undoubtedly been

accelerated by the economic crisis of the 1990s, but it had already begun prior to that, particularly with the establishment in 1976 of the Cuban Committee for Human Rights, which has still not been legalized.

10. The Government continues to minimize the importance of those groups, describing them as "mini-groups" and "counter-revolutionaries". The Special Rapporteur is of the view, however, that they are very important. This is because, firstly, at least in most cases, they emerge spontaneously in response to the need of ordinary citizens to find alternatives to all the problems in which they are immersed. Secondly, they constitute an embryo of civil society and pluralism in a context characterized by the existence, on the one hand, of the individual and, on the other, of the State apparatus which also controls the rank-and-file organizations, with no intermediate body being permitted to exist. Although these small groups represent a broad ideological spectrum, they all share a belief in the defence of individual rights, emphasizing the importance of granting the individual a place in society under the protection of a State governed by the rule of law, and a strategy of peaceful opposition.

11. The foregoing does not mean that all criticism is prohibited. There exist governmental channels which citizens can utilize - and they are even urged to do so - in order to air their grievances about the lack of public services or any other shortcomings, but always provided these criticisms neither attack the foundations of the system nor come from independent, organized groups.

12. In 1995 a priest, speaking in his personal capacity, gave the following oral testimony to the Special Rapporteur, who believes that it represents the views of many citizens on the situation in Cuba:

> "I have known persons who were detained for 40 days and who lost more than 40 pounds, or about half a kilo a day. When society sees that a person spends 40 days in prison and comes out looking like a walking corpse and has been totally disoriented psychologically by the pressure and the anguish he has suffered, that society is simply living in terror, and there are plenty of other ways that may be utilized elsewhere to exercise violence and power, because there are other means which are ultimately more effective and evidently more destructive of the person and of society. I am referring, for example, to the methods of control and surveillance, to the distrust that has been created between people, to the system of denunciations in Cuba, which is even used against children and the elderly. A person is sure to distrust everybody else because anyone could be an informer. This creates an atmosphere not only of fear, but also of societal hypocrisy, because people conceal what they think and feel. Clearly, we are living in a country of masks, and this is absolutely self-destructive in a society. One doesn't know what to believe because people don't say what they think, they don't do what they say, and so one lives in total confusion. The result is that this power is perpetuated, but at the cost of all the fundamental elements comprising the reason why we live in society and the reason why we are a people, a nation, a country. The price paid is enormous, in suffering, in sadness, in utter degradation as a result of living in a world of hypocrisy. All this creates a situation which makes people feel they can do nothing to change it. They are a people without hope, tired and oppressed ...

"The authorities hold society constantly in their grip ... The way they conceive of and exercise power crushes human dignity ... The situation in the country would require those with the capacity to do so to open up possibilities for dialogue, for respect for others and, consequently, for the establishment of channels of participation and listening to what the other has to say, which should be expressed through the ballot box, through a national, open dialogue with all groups that have had the courage in some way to express themselves differently in such a monolithic situation ...

"Cuba was never a country of emigrants, it was one of immigrants, but now the only hope of Cubans is to be able to leave the country. Sometimes persons with a greater level of conscience, of commitment, with profound religious or patriotic ideals, find no alternative but to leave. We could say that the tragedy of Cuba is that those in power are strong enough to hold on to power but not strong enough to transform the country in a creative manner and launch it towards the future; they don't have the power or the moral authority to escape from this impasse but they have sufficient brute force to continue running the country."

13. In this context, it is worth mentioning that the changes taking place in Cuban society, principally in the economic sector, are creating a more conducive framework enabling the incipient movement of non-governmental organizations to reform Cuban civil society and to call for democratic rules in relations between society and the political authorities.

2. Individual cases relating mainly to 1994 and 1995 which were reported to the Special Rapporteur in 1995

14. In November 1994 the Special Rapporteur received from non-governmental sources a list containing 1,195 names of persons serving sentences for crimes with political connotations. 2/ In 1995, some of those persons, including the following, were released before serving their full time:
Sebastián Arcos Bergnes, Rodolfo González González, Marta María Vega Cabrera, Caridad Lima García, Arnaldo Pascual Acevedo Blanco, Bárbaro Licourt Medina, Juan Luis Fuentes Valdés, Amador Blanco Hernández, Jorge Luis Carmona, Luis Felipe Lorens Nodal, Joel Mesa Morales, Carlos Orue Caballero, Juan José Pérez Maso, Julio César Pérez Maso, Rolando Quiñones Medina, Indamiro Restano, Guillermo Rodríguez Almora, Luis Rodríguez León, Roberto Rodríguez Morejón and Alquímedes Ruiz Columbié.

15. There does not appear, however, to be any tendency for the number of persons serving sentences for such crimes to decrease: indeed, an updated version of the said list, received in August 1995, includes approximately 1,500 persons, at least 115 of whom were apparently arrested in 1994 and 1995. The crimes with which they are charged continue to be, in a large number of cases, enemy propaganda, "dangerousness", acts against State security, contempt, rebellion, etc., terms generally used to qualify peaceful activities involving denunciation or criticism of the country's social and political situation. Moreover, it frequently happens that the true motives are concealed behind charges of ordinary crimes.

16. The following are some of the cases of which the Special Rapporteur learned during the current year:

(a) Cristina Alfonso Valdés, a member of the Partido Democrático 30 de Noviembre, was attacked in Havana on 24 January 1995 by a police agent who shot at her when she attempted to come out in defence of her brother, who was being held and beaten. Two months after the assault, she was charged with contempt, for which the office of the public prosecutor is requesting a penalty of three years' imprisonment. Nurgia Torres León, who witnessed the events and came out in defence of Cristina Alfonso, is also being tried for contempt, and in her case, too, the public prosecutor is requesting a penalty of three years in prison;

(b) Jorge Heriberto Alfonso Aguilar, Iván Curra de la Torre, Ileana Curra Luzon, 3/ Felipe Lázaro Carrazana Díaz, Pedro Pablo Denis Blanco, Carlos Denis Denis, Rodolfo Valdés Pérez, Regla Tapanes Tapanes, Ariel Lavandera López, Maria Elena Bayo González and Marcos González Hernández were sentenced to one to three years' imprisonment (in some cases replaced by restriction of freedom) by the Provincial Court of the City of Havana in case 36/94 for the crime of enemy propaganda and other acts against State security. According to the sentence, it was proven that the accused, "in disagreement with the Cuban revolutionary process and its basic principles, with a view to subverting the established social order and destabilizing the bases of our social and economic system ..., conceived the idea of preparing and disseminating in various places proclamations with texts having a counter-revolutionary content", which they carried out by producing a home-made printing block and printing fliers with texts such as "Down with Fidel" and "Plebiscite";

(c) Armando Alonso, a member of the Cuban Committee for Human Rights and a resident of the United States, entered the country on 5 April 1993 with false papers. Shortly thereafter he was arrested, then held in the Villa Marista State Security police station, where he was reportedly pressured to make statements against other members of his group, until 4 August 1994. On that date he was tried and sentenced to 12 years' imprisonment for the crimes of enemy propaganda and acts against State security. At the end of 1994 he was transferred from Combinado del Este prison to Kilo Ocho prison, Camagüey, where he was reportedly placed in a solitary confinement cell;

(d) Jorge Luis Brito Rodríguez and Miguel Angel León García, lay pastors at the Baptist Church of San Fernando de Camarones, Cienfuegos, were arrested in December 1993 and sentenced to six years in prison for the crimes of rebellion and enemy propaganda. They were charged with being the authors of anti-Government fliers and with organizing a "counter-revolutionary group" that supposedly met on the premises of the Baptist Church. They are serving sentences in Ariza prison, where the first-mentioned suffers from serious health problems. Alexis Carballosa Falcón, Juan Silvio Dueñas Marrero, Salvador Aguiar and Roberto Díaz were also sentenced in the same proceedings;

(e) Leonardo Cabrera Arias, Lino José Molina Basulto, Ramiro Angel Rodríguez Leyva and Jorge Oscar Rodríguez Leyva, residents of Minajarle, municipality of Jiguaní, Granma, were sentenced to six to eight

years' imprisonment for the crimes of rebellion and acts against State security in a trial held in Bayamo on 14 March 1994. The acts with which they were charged were "assembling, assessing the country's economic, social and political situation, listening to foreign broadcasts, engaging in written propaganda and seeking a cellar in which to assemble persons". The accused alleged that they met weekly in order to conduct Bible studies. They are serving sentences at La Manga prison, Granma province;

(f) Francisco Chaviano González, 4/ President of the National Council for Civil Rights in Cuba, was arrested in May 1994 and taken to the Villa Marista State Security police station. According to information received from persons who have been detained at that centre, the detainees there are frequently made to go without food for 19 successive hours and are forced to sleep on a sheet of iron, facing a fluorescent light, in sealed cells where they remain in solitary confinement. In addition, they are frequently denied drinking water and not allowed to wash themselves for three or four days. That is the treatment presumably undergone by Francisco Chaviano. At least three other persons, Abel del Valle Díaz, Pedro Miguel Labrador and Juan Carlos González Vázquez, were also tried in the same proceedings, being charged with "disclosure of State security secrets" and "falsification of documents". The trial was held on 15 April 1995 before a court martial, despite the fact that nearly all the accused were civilians. Abel del Valle Diaz's lawyer subsequently wrote in the Miami press 5/ that the proceedings were conducted secretly, or in other words without the participation of attorneys, and it had not been until three days before the trial that he had been permitted to leaf through the records and interview his defendants. Moreover, the attorney was not permitted access to the two documents classified as "secret" (which dealt with the question of how to fight economic crimes in the restaurant, hotels and services sector and in the fuels sector) which had allegedly been found in the possession of the accused and constituted the basis of one of the principal charges. Several witnesses for the defence were denied admittance to the trial, which was held in camera, and family members and friends were threatened at the entrance to the building by members of "rapid-response brigades". A number of members of human rights groups were detained on their way to the court and released a few hours later. Francisco Chaviano was sentenced to a prison term of 15 years and Abel del Valle, three years;

(g) Efraín García Hernández, a member of Partido Cívico Democrático, was arrested on 21 September 1993 and sentenced on 27 September to four years' imprisonment for "dangerousness". During the trial, it was alleged that one weighty element that contributed to his being sentenced was that he was in the habit of getting drunk and causing public scandals. His neighbours, however, denied that allegation;

(h) The San Miguel del Padrón home of Rafael Ibarra Roque, President of the Partido Democrático 30 de Noviembre, was raided on 12 June 1994 by State Security police agents, who also threatened his family. On 17 June he was arrested together with his brother-in-law Yadel Lugo Gutiérrez, a member of the same group, and taken to the Villa Marista State Security Department. Yadel Lugo was subsequently released. In July and August, respectively, State Security agents appeared at Rafael Ibarra Roque's home and confiscated goods that legally belonged to the family, such as a motor car, a gas stove, a

television set and a number of domestic animals on the basis of a warrant for the confiscation of allegedly ill-gotten goods. In February 1995 he was tried by the Provincial Court of the City of Havana for the alleged crime of sabotage and possession of weapons and sentenced to 20 years in prison. He is serving his sentence in Combinado del Este prison in Havana. According to the information received, his wife Maritza Lugo and other family members continue to be harassed. Yadel Lugo Gutiérrez was threatened on a number of occasions and dismissed from his work and study centre in February 1995;

(i) Jorge Luis Ortega Palacio was arrested on 26 June 1994 for displaying a bed sheet on which he had printed the words "Abajo Fidel" (Down with Fidel). He was sentenced to one year and three months in prison for the crime of "public disorder". At the time of the arrest he was severely beaten. In October of the same year he was transferred from Taco Taco prison to Cinco y Medio prison in Pinar del Río, where he is reportedly in a precarious state of health and receiving no medical treatment;

(j) Vladimir Petit Ramírez was arrested on 5 August 1994 when he was found with a video camera in an area of Havana where an anti-Government demonstration was taking place. He was sentenced to three months in prison for the crime of participation in public disturbances;

(k) Noel Reyes Martínez, aged 25, a member of the Partido Democrático 30 de Noviembre, was arrested on 3 June 1995 after shouting anti-government slogans in a public place. He was transferred to the Calzada de Luyanó police station between Lugo and Acierto, Reparto Luyanó, 10 de Octubre municipality, Havana, and is alleged to have been severely beaten. At the time the report was received he had been conditionally released, having been charged with contempt, for which the prosecutor sought a two-year prison sentence;

(l) Orson Vila Santoyo, an evangelical pastor (overseer of the Central District of the Assembly of God), was arrested on 25 May 1995 in Camagüey for refusing to close down the "house of worship" which he maintained at his domicile. 6/ Some 80 of the approximately 100 existing houses of worship were said to have been closed down in Camagüey Province in May and June 1995. Charged with "unlawful association" and "disobedience", he was tried by summary procedure the same day and received an 18-month prison sentence. He is serving the sentence at the Cerámica Roja prison in Camagüey. Two other members of the evangelical church in Camagüey, Balbino Basulto and Benjamín de Quesada, were arrested also and were released a few hours later.

17. The Special Rapporteur has also received reports on the conditions purportedly endured by a number of persons serving sentences for crimes with political connotations, especially in relation to their health and the lack of adequate medical care. The following cases are among those reported on:

(a) Gustavo Rodríguez Sosa, who is serving a sentence for the crimes of rebellion and enemy propaganda at La Manga prison in Granma. He suffers from a general rheumatic condition;

(b) Rubén Hoyos Ruiz, an inmate of Manacas prison since 1990, received a five-year prison sentence for disseminating enemy propaganda. He was recently

tried at the prison for contempt and was sentenced to two additional years in prison. He has diabetes and is said to require surgical treatment for his eyes;

(c) Tiburcio Félix Ramírez, aged 60, is serving an eight-year prison sentence for the crime of enemy propaganda in the provincial prison of La Manga in Granma. He has ophthalmic problems, which began in prison, and is not receiving medical care;

(d) César Codina, aged 73, is serving a five-year prison sentence in La Manga, Granma, for disseminating enemy propaganda. He suffers from diabetes and hypertension, and he has nervous problems that make it difficult for him to function on his own;

(e) Armando Espinosa, aged 74, is serving a sentence in La Manga for the crime of rebellion. He has lung cancer;

(f) Luis Rodríguez León, aged 52, is serving a seven-year sentence in the Kilo 8 maximum security prison in Pinar del Río for the crimes of enemy propaganda and unlawful association. According to information which the Special Rapporteur received in January 1995, he has a duodenal ulcer and chronic gastritis;

(g) Omar del Pozo Marrero. A foreign doctor who examined him in May 1995 in Quivicán prison in Havana is reported to have diagnosed, inter alia, hypertension, malnutrition and serious gastrointestinal problems. He was transferred to the Carlos Finlay military hospital in Havana, where he remained for five weeks without receiving the necessary medical care. At the end of this time he was sent to Guanajay prison where, it has been reported, he is being kept in solitary confinement and his health continues to give rise to concern.

18. The Special Rapporteur has continued to receive information about cases of harassment, house searches, temporary arrest and loss of employment or other kinds of reprisal connected with the exercise of freedom of expression and association or due to discrimination on political grounds. On the other hand, "acts of repudiation" by individuals organized by the authorities are reported to have decreased in number this year. The following are among the cases reported recently:

(a) Ramón Varela Sánchez, Carlos Alberto Guzmán González and Miguel Angel Oliva, members of the Liga Cívica Martiana, were arrested in Havana in July 1995;

(b) Lorenzo Pérez Núñez, Luis Alberto Lazo Borrego, Javier Márquez Borrego and Maritza Núñez, from Artemisa municipality, together with Juan Francisco Monzón Oviedo, from El Mariel municipality, all members of the Partido Demócrata Martiano, were arrested on 10 August 1995 and subsequently transferred to the Villa Marista detention centre by State Security agents, who also searched their domiciles;

(c) Joaquín Cabezas de León, Librado Linares and Cecilio Monteagudo Sánchez, members of the Grupo Reflexión in Camajuaní, Villa Clara, were summoned

to the State Security Department in January 1995 and threatened with prosecution if they persisted in their activities within the group;

(d) Mercedes Parada Antúnez was detained temporarily and threatened with further imprisonment (she had spent a year in prison from 1993 to 1994) during the last week of January; 7/

(e) Luis Alberto Muro Gutiérrez, a writer and a member of various opposition groups, such as the Asociación Pro Arte Libre (APAL), is alleged to have been subjected to various forms of harassment and discrimination since the 1980s, including expulsion from literary workshops, lack of access to advanced studies in the arts and humanities, no possibility of obtaining employment or publishing his writings, and so forth. On 3 April 1994, he was taken from the National Hotel in Havana, where he was in the company of two foreign friends, by four State security agents who beat him and fractured his skull. One year later he was still undergoing treatment;

(f) Félix Mario Fleitas Posada, a member of the Asociación Pro-Democracia Constitucional, was summoned on 11 December 1994 to the L y Malecón police station where he received an official warning for "conducting activities against the regime". Members of his family are also said to have been threatened with reprisals in order to deter them from maintaining contacts with human rights groups;

(g) Juan Guarino Martínez Guillén, President of the so-called Confederation of Democratic Workers of Cuba, was arrested on 13 July 1995 at his domicile in central Havana and was subjected to an interrogation and threats. On the same day, María Elena Argote González, a member of the same Confederation, was summoned by State Security agents, who threatened to have her put on trial;

(h) José Antonio Fornaris Ramos, of the Frente de Unidad Nacional Liberal Progresista, was arrested in Havana on 16 June 1994 and kept for 19 days in offices belonging to the 100 y Aldabó Technical Department of Investigations where he was subjected to questioning and threats designed to deter him from engaging in any type of political activity;

(i) During the final months of 1994 security organizations summoned and threatened the following members of the Movimiento Cristiano Liberación, the majority of them in Havana: Segundo Lima, Miguel Salude, Encarnación Echenique (Guines municipality, Havana), Antonio Llaca, Elío Rodríguez, Pedro Ferreiro, Omar Víctores, Ramón Antúnez, Antonio Hernández, Rafael León (east Havana), Pastor Rodríguez (San Miguel municipality), Andrés Rodríguez (Holguín), Regis Iglesias, Marve Mora (Santiago de Cuba), Pedro Valdés (Aguada de Pasajeros, Cienfuegos), Antonio Sánchez, Armando Barreras, Efrén Martínez (San Luis, Pinar del Río), Ernesto Mayea, Alejandro Payá, Oswaldo Payá;

(j) A considerable number of members of political and human rights groups were arrested in early July, in connection with the anniversary of the sinking of the tugboat 13 de Marzo. 8/ It was further reported that an extensive police operation had been mounted in Havana at that time to prevent the organization of any commemorative activities by opposition groups. A mass that had been

scheduled at the Church of the Sacred Heart of Jesus was cancelled by the authorities and the church was closed;

(k) José M. Gil, Alfredo Santana, Roberto González, Eduardo García Nieto, Rafael Vigoa and Miguel Padilla, members of the teaching staff at the José Antonio Echeverría Polytechnic Institute for Advanced Studies in Havana, were penalized after sending a letter to the Rector on 28 September 1994 expressing their disagreement with the way in which the Government had treated persons who had demonstrated on 5 August 1994 and advocating a shift to democracy in Cuba. Although they were not officially expelled, the penalty consisted in not allowing them to teach at any educational establishment in the country;

(l) Jesús Marante Pozos, a resident of Piloto, Pinar del Río province, was expelled from the Abel Santamaría teaching hospital after refusing to continue his membership in the Union of Communist Youth. His wife, Dr. Yanelis García González, was expelled from the Primero de Enero Polyclinic;

(m) Rubiseida Rojas González, a Spanish teacher in the trade school in San Antonio de los Baños municipality, was dismissed from her post and, as a result, expelled from the education sector in Cuba on 3 November 1994. In March 1994, she had been removed from the post of Director in the same school for having in her possession copies of the Miami newspaper El Nuevo Herald and other foreign publications. The basis for the final decision to expel her was that she had committed acts contrary to socialist morality and the principles of Cuban society by failing to belong to the committees for the defence of the revolution, participate in political activities and pay one day's salary to the territorial troop militia;

(n) Enrique José de la Cotera Doce, a member of the teaching staff at the José Antonio Echeverría Technical Institute for Advanced Studies in San José de Las Lajas, was dismissed from his post on 30 June 1995 for expressing unwillingness to continue such non-teaching parallel activities as voluntary work and political and union activities ordered by the administration and to make the obligatory payments of dues to the union and the territorial troop militia.

19. The Special Rapporteur remains concerned about the continuing dismissals of teaching staff which are taking place despite the criticisms of this practice which were expressed by the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization in the framework of Convention No. 111 concerning discrimination in respect of employment and occupation. 9/ In its most recent report to the International Labour Conference, the Committee states:

> "The Committee recalls that the Latin American Central Organization of Workers (CLAT) alleged in 1992 that 14 university teachers had been dismissed for having expressed their political opinions, in accordance with their constitutional rights, in an eight-point "declaration of principles" which they signed and sent to their immediate superiors. The Government replied that inquiries into the matter showed that the teachers in question no longer had the essential qualities required for teaching and that Legislative Decree No. 34 of 1980, which provides that the dismissal of

teachers in higher education may be decided upon by the rectors of universities and is subject to appeal, was applied. Nine of the teachers dismissed had appealed to the Minister of Higher Education but their appeals were dismissed.

"The Committee again urges the Government to explain what it means by 'essential qualities required for teaching'. While noting that the Government again states that the teachers concerned were offered jobs but refused them, the Committee asks the Government to indicate what means of redress, other than the above-mentioned procedure of appeal to the Minister of Education, are available to these workers as protection against any discriminatory practices based on any of the grounds in the Convention, particularly political opinion.

"...

"With regard to Resolution No. 2 of 20 December 1989 respecting the reinstatement of the educational workers to whom Legislative Decree No. 34/80 applied ..., the Committee observed that these workers may only be reinstated after completing five years' disciplinary work, during which they are excluded from the education sector. The Committee notes that, according to the Government, this period may be reduced to a period of less than five years with a view to reinstatement.

"The Committee is bound to recall that this legislation is drafted in very broad terms and could therefore give rise to practices which discriminate against any worker coming into contact with young people in the education process, enforceable by penalties which exclude them from their employment for a long period. It considers that these provisions are not consistent with the principles of the Convention and points out that they would only be in line with the Convention if they dealt with qualification requirements for certain jobs involving special responsibilities ... The Committee asks the Government to take the necessary steps to have these legislative provisions repealed in the near future, as required by article 3 (c) of the Convention". 10/

20. Another disturbing consideration is that former prison inmates are marginalized on political grounds. They receive the label "untrustworthy", which effectively bars them from engaging in professional or technical work and blocks their access to administrative posts or positions of responsibility or employment in a foreign firm, even though their qualifications and skills may make them ideal candidates for the job. In the best of cases, they are relegated to posts of inferior worth. Moreover, the Special Rapporteur received reports on the politically motivated discrimination to which workers are subjected when hiring takes place in the most prosperous sectors of the economy, including sectors which have received foreign investment.

B. Freedom of the press

21. The Special Rapporteur continued to receive information about cases of journalists who suffered reprisals ranging from dismissal from their jobs to prosecution for having expressed opinions critical of the current system in the exercise of their profession. That was the case, for example, of Alexis Castañeda Pérez de Alejo, who worked for, among other newspapers, Vanguardia and Huella, and on 15 May 1994 was sentenced to five years imprisonment for having made statements which were termed "enemy propaganda".

22. Journalists who have been dismissed from their jobs, in many cases on political grounds, have formed various unauthorized news agencies in order to send information to foreign communications media. Frequently, however, they are subjected to house searches at which their equipment (fax machines, cameras, tape recorders, etc.) is confiscated and other types of measures of intimidation are taken, as in the following cases:

(a) Néstor Baguer, President of the Agencia de prensa independiente (APIC), was attacked on 2 March 1995 in Havana by an unknown assailant and suffered a broken wrist and several bruises. On 11 July State Security agents searched his home and seized a fax machine which had been made available to him by Reporters sans Frontières; they also cut off his telephone service. A few days later Mr. Baguer lodged a complaint with the Plaza municipal court for the return of the confiscated item, but the court secretary refused to accept the complaint on the grounds that it had no legal foundation;

(b) Roxana Valdivia, a correspondent of Reporters sans Frontières and a member of APIC in Camagüey, was arrested on 22 May 1995 and interrogated for 10 hours. Subsequently she has continued to receive telephone threats. Orestes Fandevila, Luis López Prendes and Lázaro Lazo, also members of APIC, were arrested and interrogated for several hours on 8 July 1995;

(c) Rafael Solano, who was dismissed from the Radio Rebelde and Radio Taino radio stations in 1994 and is currently a member of the agency Habana Press, was arrested on 12 July 1995 in San Miguel del Padrón. During the 15 hours for which he was held. he was accused of distributing propaganda and threatened with prosecution if he continued to send reports to the United States radio station Radio Martí and to the newspapers The Miami Herald and El Diario de las Américas;

(d) José Rivero García, a member of the Havana Circle of Journalists, was subjected to a house search on 13 July 1995 by State Security agents who confiscated a video camera, a fax machine and a typewriter.

C. The administration of justice

23. The Special Rapporteur received information from jurists within Cuba conveying their concerns about deficiencies in the administration of justice, and specifically about the lack of independence of the judiciary from the political authorities which is particularly clear when persons prosecuted for crimes with political connotations are sentenced. It was also reported that

there is the same lack of independence in the legal profession. Decree Law No. 81 of 8 June 1984 and its regulations establish membership in the National Organization of Collective Law Offices (ONBC) as a requirement for exercising this profession; in order to enter this organization it is necessary to have "moral qualities which accord with the principles of our society" (art. 16 (a) of the decree), which in practice has blocked entry to those who do not share the official ideology and policy. Although article 5 of the decree proclaims that ONBC is an "autonomous entity", the Ministry of Justice carries out inspections, supervision and monitoring of its activities and those of its members, issues regulatory and other provisions and performs other additional functions (special first provision of the decree and article 42 of the regulations).

24. In theory, ONBC is democratically governed by a general assembly elected by the member lawyers. However, the public (non-secret) system for the election of officers (art. 13 of the regulations) means that in practice, according to the information received, the electors vote for the directors, members of the Communist party or its youth branch (which together account for over 85 per cent of the delegates), and other candidates who are acceptable to the administration. Opinions which differ from the view of the administration are silenced through intimidation.

25. Where the right of association is concerned, the National Union of Cuban Jurists (UNJC) has a monopoly over Cuba's lawyers' association. According to the information received, the leaders and representatives of State bodies play a predominant role in its activity and management, while simultaneously serving in the Communist Party. A group of lawyers has been pursuing measures since 1990 to set up an independent association under the name of "Unión Agramontista de Cuba". In February 1991 they submitted an application for legalization to the Ministry of Justice but have so far received no reply.

26. It was also reported that members of the Unión Agramontista are frequently the victims of measures such as various types of pressure ranging from "friendly advice" to administrative prohibition on undertaking the defence of human rights activists and members of the political opposition. There is overt hostility on the part of ONBC leaders to the signing of petitions containing dissenting opinions concerning national or professional problems, which has resulted in the signatories being summoned to meetings where pressure has been brought to bear on them and, ultimately, in their possibly being sanctioned to the extent of being forbidden to practise as lawyers. Measures are also adopted to prevent fellow lawyers from meeting in private homes; on 22 April 1995, for example, three unknown persons burst into the home of the lawyer Jorge Bacallao, who was in a meeting with several other jurists. Summonses to the police authorities and the public prosecutor's office, arbitrary arrests and even imprisonment are not unknown, as in the case of Freddy Reyes Lafitta, who was sentenced to four years' imprisonment after being charged with the offence of enemy propaganda in 1993 for painting signs opposing the political regime.

27. Early in 1995 the lawyers Leonel Morejón Almagro, of the Marianao collective law office, and René Gómez Manzano, of the Havana Cassation Office, were expelled from their respective offices. In addition, the lawyers Castor de Moya Viera, Juan Escandel Ramírez and Jose Angel Izquierdo González

have been subjected to surveillance and harassment. All of them have adopted positions criticizing the operation of the administration of justice in Cuba and have defended persons accused of offences with political connotations. In the case of Sergio Hernández Ramos, one of the defence lawyers in the trial of Francisco Chaviano, 11/ it was reported that on 15 April 1995, when he left after the hearing, he was followed by a State Security vehicle and attacked by unknown persons on reaching Calzada de Santa Fe.

D. Police abuses resulting in fatalities

28. The complaints received by the Special Rapporteur also include cases of persons who have died or have been injured as a result of an excessive use of force by Government agents. The most serious case in recent years is certainly the sinking of the tugboat 13 de Marzo in the waters of the Straits of Florida on 13 July 1994, referred to by the Special Rapporteur in his previous report. Although the Government maintains that the authorities bore no responsibility for what was considered to have been an accident, the Special Rapporteur received testimony from some of the survivors indicating that Government launches from the port of Havana tried to stop the 13 de Marzo with pressurized water jets and then deliberately rammed it, causing it to sink. Non-governmental sources informed the Special Rapporteur that the number of persons who died was not 32, as the Government had stated, but at least 37 and that the families have for a year now been asking for an investigation to be initiated. Up to September 1995, however, the case had not progressed further than a very limited police investigation which has been filed in the Havana prosecutor's office. In response to requests by family members and lawyers, this office replied in mid-July 1995 that it had no plans to initiate legal proceedings for the sinking of the vessel.

29. The Special Rapporteur also received a report of the case of Estanislao González Quintana who was detained on 8 September 1995 and subsequently died in the Consolación del Sur police station, Pinar del Río, where he had been taken on charges of illegal economic activity. On 12 September a relative was informed that the detainee had died of a heart attack but, the report went, when the corpse was inspected in the morgue bruises could be seen as well as a deep gash in the forehead.

30. The Special Rapporteur has also received information on cases of persons allegedly shot dead by police when surprised stealing food on farms and in the fields. This appears to have been the case of Wilfredo Almiral de Armas, who died on 12 November 1994 on the Marilín farm in the municipality of Consolación del Sur, Pinar del Río, which he had entered intending to steal chickens. Reinerio Velásquez Avila was shot dead on 14 May 1994 by a guard when he was surprised with other individuals on a State banana plantation called "La Guanábana", located on Vía San Andrès highway, near the town of Holguín.

31. The Special Rapporteur has been unable to obtain reliable information as to whether or not cases of this type are duly investigated as a general rule and the perpetrators punished. However, he welcomes the reply transmitted by the Government of Cuba to the Special Rapporteur of the Commission on Human Rights on Extrajudicial, Summary or Arbitrary Execution with reference to one of these

cases, that of Orelvis Martínez Limonta. According to this reply, on 7 July 1992 a civilian guard of an economic unit surprised this person stealing sugar from a railway wagon parked in the Santa Clara station marshalling yard, and, in an attempt to capture him, shot and killed him. The guard was sentenced by the provincial court of Villa Clara to eighteen years' imprisonment. 12/

E. The right to leave and return to the country

32. Cuban law still does not recognize the right of all citizens freely to leave the country and to return to it. In both cases a permit is required which the administrative authorities may refuse on discretionary grounds, without justification under the law and frequently on political grounds, as in the following cases:

(a) Oswald and Alejandro Payá Sardiñas of the Movimiento Cristiano Liberación. The Immigration Department has informed them repeatedly, and most recently during 1995, that they are forbidden to leave Cuba even temporarily, and that this provision holds indefinitely;

(b) Elizardo Sánchez Santa Cruz, of the Commission on Human Rights and National Reconciliation, was refused a permit to visit Canada in the spring of 1995;

(c) Mercedes Pupo Robert and Ariel García Pupo were refused an exit permit although they held visas to enter Canada, where Ariel García Rivero, the husband of the former and the father of the latter, lives; he works in the merchant navy and was granted asylum in Canada in 1993;

(d) Hilda Molina Morejón, who resigned from her post as a member of the board of the Centro Internaciónal de Restauración Neurologica for ideological reasons in 1994, and her mother, Hilda Morejón Serantes, were refused a permit to leave the country temporarily to visit relatives in Argentina;

(e) Leonor Díaz Ramírez was refused a permit to leave the country to visit her son, who lives in the United States, on the grounds that he was engaged in propaganda against the Government of Cuba.

33. The maximum time allowed for temporary stays abroad is 11 months, and confiscatory measures are taken in cases of definitive exit. Cuban citizens living abroad must obtain a permit each time they wish to enter the country; these permits entail the payment of fees that are very high by Cuban standards. Moreover, the permits are usually granted for very short stays (two weeks or a month), and are required regardless of the country where the Cuban citizen has taken up residence.

34. Anyone attempting to leave Cuban territory illegally is subject to severe penalties, such as the following:

(a) Santiago Francisco Alvarez, who was a technician in charge of recording, editing and sound transmission for the Radio Guamá radio station in Pinar del Río, was dismissed from his job during the second half of 1994 after

having been declared "untrustworthy". He was accused of having purchased a boat in the port of La Coloma, with the intention of leaving the country;

(b) Mario Julio Viera González, of the Frente de Unidad Nacional, who had lost his job as an agronomist in 1988, was arrested on 30 June 1994, one day after having been issued an official summons to appear for an interview at the State Security office at 20th Street and 3rd Avenue, in the Miramar district of Havana. Three days later, his family was informed that he had been transferred to the province of Ciego de Avila to serve a two-year sentence imposed in 1990 for "illegally leaving the country". According to Mr. Viera, at the trial held that year, it was not determined that the attempt to leave the country had actually taken place, since, in fact, it had not;

(c) Carlos Alberto Ocaña Romero lost his job as a maintenance electrician at the General Hospital in Santiago de Cuba after having publicly expressed opinions against the political system. On 13 March 1994, he was arrested by State Security authorities when he was beginning to prepare to leave the country illegally. He was charged with piracy and other acts against State security, and, at a trial held in February 1995, was sentenced to a year in prison.

35. The Special Rapporteur's previous reports have mentioned the phenomenon of illegal exit by sea of citizens who used precarious means of transport in their desire to reach the United States coast. Thus, it is estimated that some 2,500 persons arrived in the United States in 1992, and some 3,000 in 1993, while approximately 30,000 people left Cuba during the crisis of August 1994. 13/ The immigration agreements signed in 1995 by Cuba and the United States are intended to put a stop to this phenomenon. To this end, the United States has undertaken, among other things, to return to Cuba all Cubans who may be intercepted at sea, instead of facilitating their entry into the United States, as had been the practice up to 1994. The Cuban Government, for its part, has undertaken to refrain from taking reprisals against such persons or against persons requesting exit visas at the United States Interests Section in Havana. The Special Rapporteur sincerely hopes this commitment will be honoured; at the same time, he is concerned at the apparent contradiction between this undertaking and the fact that illegally leaving the country is still a crime under Cuban legislation. He also wishes to express his concern regarding reports received from non-governmental sources to the effect that, although persons who are repatriated after having been denied residence permits in other countries are usually not prosecuted, they do suffer other types of discrimination in daily life, particularly as regards access to jobs.

36. In addition, the Special Rapporteur has received from non-governmental groups a partial list of persons who allegedly disappeared in the Straits of Florida while trying to leave Cuba illegally. The list contains 103 names, most of them corresponding to the years 1991 and 1992. He has also received a list of names of 77 members of the Movimiento Integracionista Democrático Auténtico who were allegedly ordered, under threat, to leave the country on the occasion of the events of August 1994. 14/ Members of other groups have also apparently been subjected to this type of pressure.

III. CONDITIONS IN THE PRISONS

37. Non-governmental sources have informed the Special Rapporteur that they have recorded the existence of 294 prisons and correctional labour camps throughout the country; it is estimated that there are between 100,000 and 200,000 prisoners in all categories; this figure represents a very high proportion of the country's population. It is also a matter of concern, bearing in mind the fact that the Special Rapporteur is still receiving reports on the precarious living conditions in the prisons, such as those described below.

38. In early 1995, there was an epidemic of leptospirosis at the Combinado del Este prison which resulted in the deaths of several inmates. More than 100 prisoners had to be hospitalized.

39. The Special Rapporteur has received a list of 26 inmates of a section of the Kilo 7 prison, in the province of Camagüey, who allegedly had tuberculosis. Moreover, in February 1995, an outbreak of diarrhoea apparently affected the great majority of the 1,300 inmates of that prison. An outbreak of tuberculosis at the Combinado del Sur prison in Matanzas has also been reported; there were six deaths at this prison during the past year. Cases of scabies also appear to be widespread.

40. A report on the situation in the provincial prison of La Manga, in the province of Granma, includes the following description of the situation of persons detained on charges of committing offences with political connotations:

> "We are placed with very dangerous criminals, people who have personality and even psychiatric disorders. In many cases, State Security takes advantage of the situation of these people and of their base moral values, and uses them to offend our dignity. State Security uses many of them as informers, promising them rewards for providing information on what we talk about, and authorizes them to beat us up if they hear us saying bad things about the President of the Republic. Moreover, the prison authorities have created a system whereby certain inmates are entrusted with disciplining the rest, in return for certain privileges. These inmates are violent people who have no scruples and are extremely dangerous, and they impose excessively strict measures. At the slightest breach of discipline on the part of a prisoner, they offend him with insulting words and even beat him up brutally ... We are subjected to severe interrogation sessions because of false information supplied by ordinary prisoners, and our lives are also threatened ... Those of us who are Christians are threatened with prosecution as common criminals on charges of what the authorities call 'proselytizing'; moreover, we are not allowed to hold religious services because they say we use them for political purposes ... Food is poorly prepared; the fish is often spoiled, and this creates serious digestive problems."

Similar situations are also frequently mentioned in reports received by the Special Rapporteur on other prisons.

41. There are also reports of cases where prisoners have been severely beaten by members of the staff. The Special Rapporteur received a list of names of 25 inmates of the Combinado Sur prison in Matanzas who are said to have been severely beaten during 1995.

42. On the other hand, the Special Rapporteur wishes to express his satisfaction at the information supplied by a former prisoner of the Alambrada de Manacas prison to the effect that this centre was closed during 1995. It appears that this was possible because of the action taken by the office of the provincial prosecutor as a result of the many complaints received regarding material conditions at the prison and the way the prisoners were treated.

IV. ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

43. One of the aims of the building of socialism in Cuba is to achieve an egalitarian society; for this purpose, mechanisms such as rationing, price subsidies and restrictions on wage levels have been established. At the same time, the Government's efforts in the field of human rights have been reflected in high levels of employment and the expansion of social security and educational coverage. However, as stated in the previous report of the Special Rapporteur, 15/ the economic tools chosen to promote high levels of protection for the whole population in these areas do not seem to have been highly effective. In fact, the economy has shown a poor rate of real growth for several years, leading to the serious economic crisis that has prevailed in Cuba since the early 1990s and the consequent impact on the enjoyment of economic, social and cultural rights.

44. The scale of the crisis has significantly worsened levels of employment. Almost 80 per cent of the industrial sector either is not functioning or is doing so at a very low level, and some 40 per cent of the workforce is unemployed or underemployed. To make up for lost income, the State continues to provide the unemployed with 60 per cent of their wages. Still, given the low level of wages, that amount is not sufficient to cover the basic needs of the average worker; as a result, he or she is often forced to undertake illegal activities. Government measures in recent years have been intended mainly to promote the operation of market mechanisms in the economy and include major incentives for foreign investment. Experts believe that these measures do not seem likely to diminish, but rather to increase the level of unemployment; that will certainly further exacerbate social inequalities.

45. The distribution of basic foods through rationing has been severely curtailed; the system now covers only about the first 10 days of each month. The existence of the free market in farm produce is alleviating the economic crisis somewhat, but the free-market prices are extremely high compared to the national average wage of about 180 pesos per month. For example, the official price of rice is 24 centavos a pound, but is free-market price is 9 pesos a pound.

46. The wage structure is determined by profession, rather than by industrial sector or through collective bargaining, and it is applied strictly, regardless of the worker's experience, qualifications or output. The wage scale was

established when the economy was still highly subsidized for the purpose of achieving a more egalitarian society. However, the present levels of inflation have made this system obsolete, causing a substantial reduction in the average standard of living and forcing many citizens to indulge in illegal activities, to find a second job or to emigrate. Another aspect of the wage structure is the fact that workers are paid in the national currency, despite the continued dollarization of the economy. Indeed, many basic consumer goods and services are paid for in dollars, and workers who do not receive their wages in dollars are deprived of access to them (the rate of exchange is 40 pesos to the dollar, and the average wage is equivalent to approximately $4.50). The Government obtains profits in hard currency from firms which operate with foreign currency, while continuing to pay minimum wages in non-convertible currency.

47. It is against this background of profound crisis and of economic employment reforms, which are for the most part detrimental to workers' rights, that the latter increasingly feel the need to set up their own trade unions, breaking the monopoly exercised in this sphere by the Central Organization of Workers of Cuba (CTC). As has happened with all the other independent organizations referred to by the Special Rapporteur in previous chapters, those unions have not succeeded in obtaining legalization and their activities are still being repressed. 16/

48. Further, to an earlier comment of the Committee of Experts on the Application of Conventions and Recommendations of the International Labour Organization concerning the application of Convention No. 87 (Freedom of Association and Protection of the Right to Organize Convention) concerning relations between CTC and the Communist Party, and the latter's alleged interference in the election of trade union leaders, the Committee stated:

> "The Committee takes due note of the comments made by a worker member of Cuba to the Conference Committee to the effect that the relations between the Central Organization of Workers of Cuba (CTC) and the Communist Party did not compromise the continuity of the trade union movement, since the members of the CTC approved its statutes, rules and guidelines and elected its leaders in an open and democratic manner, and no candidates had been proposed by the Communist Party. The Worker member also indicated that the relationship between the CTC and the Communist Party was approved by the workers democratically and that they were the only ones who were competent to decide whether or not to change it.
>
> "Nevertheless, the Committee emphasizes that a system in which there is a single party and a single central trade union organization is likely to lead in practice to external interference prejudicial to trade union independence.
>
> "The Committee requests the Government to guarantee in law and in practice the right of all workers and employers, without distinction whatsoever, to establish independent organizations of their own choosing, outside any existing trade union structure if they so desire (art. 2 of Convention No. 87), and the right to elect their representatives in full freedom (art. 3 of the Convention)".

49. The economic crisis has also seriously affected the health care system, a sector which has also been very directly and significantly damaged by the United States embargo.

50. The Special Rapporteur has received numerous reports concerning the enormous shortfalls in the provision of basic medicines and describing the dilapidated state of many of the country's hospitals. Most of the time, provincial hospitals are even short of such essential medicines as painkillers, antibiotics, anaesthetics and equipment for sutures. Either because of a shortage of electricity or because of the lack of antiseptics, it is difficult or impossible to sterilize clothing and instruments, including those used in operating theatres, and air-conditioners are switched off or used at very low settings. It has also been reported that products manufactured in medical equipment facilities are essentially intended for export or for those hospitals which provide medical treatment to foreigners; the latter are certainly provided with all they need. Meanwhile, in the country's other hospitals, patients must wait for long periods before obtaining a prosthesis.

V. CONCLUSIONS AND RECOMMENDATIONS

51. Throughout 1995, the Government of Cuba took certain measures in the field of human rights with which the Special Rapporteur expresses his satisfaction. The first measure was the decision to ratify the United Nations Convention against Torture. The second was the decision to permit a visit to Cuba by some non-governmental human rights organizations, after the Government had listened attentively to their requests and claims and acceded to them partially by agreeing to release, without the condition of leaving the country, some persons imprisoned for offences with political connotations. These measures were preceded by the decision to invite the United Nations High Commissioner for Human Rights to visit the country, which he did in November 1994. The decision to hold in 1995 another conference in Cuba on "the nation and emigration" is also positive as a continuation of the experience of the previous year, thus creating the possibility for a dialogue between Cubans living in the country and those residing abroad, albeit one still limited to very specific questions.

52. The economic situation in Cuba also differs from that of recent years in that there is a new readiness to evaluate critically previous policies and solutions that had proved to be unfeasible in today's world. The previous resistance that characterized Cuban economic policy seems to have given way to a new, more pragmatic phase. The profound restructuring of the system nevertheless is exacting a considerable political and social price, particularly with regard to the inevitable unemployment and the appearance of new social actors. Cuba is not immune to the ideological effect of institutions such as self-employment, the agricultural and livestock market and, on another scale, foreign enterprises, with the concomitant national and foreign businessmen connected with the mixed import and export economy. The emerging social sector linked to the black market is also another factor with a strong social impact.

53. In spite of the steps being taken in the United States Congress to reinforce the embargo, United States policy towards Cuba, which is a pallid remnant of the cold war, is another area where resistance to change, in our

view, would seem to be waning. The policy based on the trade and financial embargo against Cuba has increasingly lost support at the international level as well as in broad and significant sectors of the United States.

54. It is essential for the Cuban economy to be transformed in an orderly and peaceful manner, without social upheaval. This is clearly also in the interest of the international community. The internal decisions taken by the Government of Cuba are decisive. Nevertheless, without a positive and favourable international climate, such measures would be much more difficult to adopt and implement.

55. The current dialogue between the European Union and the Cuban Government aimed at achieving an agreement on cooperation, like that which already exists with other countries in the region, should yield positive results in both the economic area and the field of human rights. In order to ensure that the process of change, which seems inexorable in Cuban society, takes place in a peaceful and effective manner, there is a need to have channels for responsible and constructive information and action, but which are also truly independent and legitimately representative in the eyes of the Cuban people.

56. In the field of human rights, serious violations of the civil and political rights of Cuban citizens continue to occur. It could not be otherwise since political pluralism and freedom of association have still not been officially recognized and, therefore, the freedoms of expression, information, movement and assembly and the freedom to demonstrate peacefully continue to be infringed. Those who defy these prohibitions, which are contrary to human rights, are subject to persecution, discrimination and even imprisonment. Under the Cuban Penal Code, enemy propaganda, unlawful association, "dangerousness" to society, illegal entry into or departure from the country and so forth continue to be wrongfully defined as offences.

57. Repression in individual cases of opposition figures and independent human rights activists thus continues unchanged, although, according to information received, there has been a decrease in the number of "acts of repudiation" on the part of the rapid response brigades. If any improvement can be discerned in this context, it is in the new climate of discussion which has come about - unthinkable only several years ago - in intellectual sectors, which have called into question vital aspects of the system that exists in Cuba.

58. The continuation of human rights violations during 1995 obliges the Special Rapporteur to reiterate to the Government of Cuba essentially the same recommendations as those of the previous year. They involve measures which would substantially improve the human rights situation and which, in many cases, require purely administrative decisions:

(a) Cease persecuting and punishing citizens for reasons relating to the exercise of the freedom of peaceful expression and association;

(b) Take immediate steps to release unconditionally all those persons serving sentences for offences against State security and other related offences and for trying to leave the country unlawfully;

(c) Permit legalization of independent groups, especially those seeking to carry out activities in the political, trade union, professional or human rights field, and allow them to act within the law, but without undue interference on the part of the authorities;

(d) Ratify the principal human rights instruments to which Cuba is not yet a party, in particular, the International Covenant on Civil and Political Rights and its two Optional Protocols (the first on communications from individuals and the second intended to abolish the death penalty) and the International Covenant on Economic, Social and Cultural Rights;

(e) Delete from penal legislation types of offences by virtue of which citizens may be tried for exercising their right to freedom of expression and association, such as enemy propaganda, unlawful association and possession of illegal printed matter and restrict the application of other offences which, while not specifically so designed, may, in practice, be used in such a way as to have the same effect, as, for example, the offence of rebellion;

(f) Review in depth the legal provisions relating to the concept of "dangerousness" and the relevant security measures with a view to eliminating all those aspects liable to infringe the rights and freedoms of individuals;

(g) Repeal all those legal provision which imply discrimination between citizens on political grounds, in particular in the employment and education sectors, and redress as far as possible abuses committed in this area in the past, for example, by reinstating in their former posts persons who have been dismissed;

(h) Repeal the legal provisions which bar Cuban citizens from exercising their right to enter and leave the country freely without requiring prior administrative authorization. This also implies putting an end to de facto discrimination against persons who, having unsuccessfully attempted to settle abroad, have been repatriated. Persons of Cuban origin residing abroad, in particular those who are Cuban nationals, should be able to enjoy the same right once minimal administrative requirements have been met;

(i) Respect the guarantees of due process, including the independence of the judiciary, in accordance with the provisions of the relevant international instruments, adopting in particular the measures necessary to facilitate free and effective access to legal assistance for all persons put on trial. Such assistance should be provided by lawyers able to practise their profession with complete independence;

(j) Investigate thoroughly the events surrounding the sinking of the tugboat 13 de Marzo and the many resulting casualties, with a view to punishing those responsible and providing compensation to the relatives of the victims;

(k) Ensure greater transparency and guarantees in the prison system, so as to prevent excessive violence and physical and psychological suffering from being inflicted on prisoners. In this connection, it would be a major achievement to renew the agreement with the International Committee of the Red

Cross and to allow non-governmental humanitarian organizations access to prisons;

(l) Allow international non-governmental human rights organizations to enter the country more frequently so that they can evaluate the human rights situation and offer their competence and cooperation with a view to securing improvements.

59. The international community should continue providing all possible support for the establishment of a process of peaceful political transition in Cuba to accompany the ongoing economic reforms. It also should ensure that adequate humanitarian assistance is provided to the Cuban population in need, in particular vulnerable groups such as children, youth, the elderly, women, disabled persons and unemployed persons. It is also necessary to facilitate multi- and bilateral technical and financial cooperation with Cuba which can enable its Government and people to continue on the path of the economic reforms in progress and to undertake, on a consensual basis, the political reforms which are urgently called for by the current situation, in particular with respect to human rights.

60. In accordance with the invitation by the Commission on Human Rights in its resolution 1995/66, the Government should consider the possibility of requesting the establishment of a programme of advisory services and technical assistance. The objective of the programme should be to facilitate the dissemination of information on, and the education of Cubans with respect to, human rights; to assist international experts in carrying out technical studies so as to bring domestic legislation more closely in line with the human rights requirements of universally accepted international standards; and to establish national institutions for the promotion and protection of human rights.

Notes

1/ See para. 18 (j) below and E/CN.4/1995/52, para. 40.

2/ See E/CN.4/1995/52, para. 9.

3/ Ibid., para. 10 (1).

4/ Ibid., para. 11 (b).

5/ El Nuevo Herald, 27 April 1995.

6/ "Houses of worship", which are generally to be found in the homes of clergymen, were authorized in 1990.

7/ See E/CN.4/1995/52, para. 30 (b).

8/ See para. 28 of this report.

9/ See E/CN.4/1995/52, para. 18.

10/ International Labour Conference, Eighty-second Session 1995, Report III (Part 4A), Report of the Committee of Experts on the Application of Conventions and Recommendations, Geneva 1995, pp. 301-302.

11/ See above, para. 16 (f).

12/ See E/CN.4/1995/61, para. 114.

13/ See E/CN.4/1995/52, paras. 36-43.

14/ Ibid., paras. 41-42.

15/ Ibid., paras. 48-55.

16/ See above, para. 18 (g).